IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc 22162-M of 2007

Date of decision: 20.8.2007

Nasib Singh …Petitioner

Versus

State of Haryana …Respondent

Present: Mr Surender Deswal, Advocate for the petitioner.
Mr Vikas Chaudhary, AAG Haryana.

S.S. SARON, J

This order will dispose of Criminal Misc 22162-M and 32477-M of 2007 as both the petitions have been filed by the same petitioner – Nasib Singh. Criminal Misc 22162-M of 2007 is the application submitted by the petitioner during inspection of the District Jail, Bhondsi by the Administrative Judge. Criminal Misc 32477-M of 2007 has been filed in the Court.

The petitioner seeks regular bail pending trial in respect of offences under Sections 323, 420, 467, 468, 471, 506, 120-B and 419 IPC. The FIR in the case has been registered on the complainant of Bharat Kaushik who is a property dealer. It is inter alia alleged that there has been an attempt to illegally occupy plots No.10 and 11 at Springfield Extension No.1, Faridabad ad measuring 250 sq yrds each by Nasib Singh (petitioner), Baljit Singh and Smt Anita as also by Smt Neelu and 2-3 other persons. The aforesaid plots, it is stated by the complainant, were purchased by his wife – Smt Meenakshi Kaushik and a friend – Subhash Chand from

Hansmukh Bhai vide registered sale deeds dated 6.10.2006. However, the accused aforementioned had a bad eye on the plots. From 2.11.2006 to 4.11.2006 during the night at about 11 O'Clock, 2 O'Clock and 3 O'Clock, the aforementioned persons came in a black coloured Maruti Van, the number of which could not be noted due to darkness. They told Dori Lal – Chowkidar that the land belonged to them and he should convey to the complainant to vacate the plot within two days otherwise they would be killed and thrown at such a place where their dead bodies even cannot be recovered. The petitioner, it is alleged, is already convicted in a murder case and he was saying that he is already in prison and it would not affect him if he killed 2-4 more persons. On account of the threat held out, the complainant apprehended danger to his life and property. Besides, Nasib Singh – petitioner had made a fake registry on 27.7.2007 in the name of Smt Anita – wife of his son Baljit Singh.

Learned counsel for the petitioner has submitted that there is no allegation in the FIR that the petitioner has used the alleged forged document before any authority. Therefore, the offences under Sections 420, 467, 468, 471 and 120-B IPC are not made out. In fact, only a case under Section 506 IPC can be aidt to be made out. It is submitted that the petitioner in fact is the owner of the land which he had purchased from the mother of Hansmukh Bhai namely Mani Ben in the year 1972. The copy of the sale agreement and general power of attorney given by Mani Ben and Will of Mani Ben in favour of the petitioner are attached as Annexures P2, P3 and P4 respectively. The said documents, it is alleged, show that the petitioner is the original owner of the property. The petitioner has also filed a civil suit for getting his land back. It is also submitted that the petitioner

is aged 65 years and has been implicated in a false case. The petitioner was arrested on 21.1.2007 and since then he is in custody.

In response, learned counsel for the State has submitted that the petitioner has set up false documents. It is submitted that he has forged power of attorney, the Will and the agreement to sell. It is submitted that the stamp paper which the petitioner allegedly purchased from the stamp vendor was not even born on the date of purchase of the stamp paper from him. The power of attorney was got prepared and then he sold the land in the name of his sons and thereafter in the name of his daughter-in-law – Anita. The petitioner himself signed the documents as a witness. Therefore, he has actively participated in the forging of the documents.

I have given my thoughtful consideration to the contentions of the learned counsel for the parties.

The allegations as made against the petitioner are that he has forged the sale agreement dated 11.10.1972 (Annexure P2), the general power of attorney dated 11.10.1972 (Annexure P3) and the Will dated11.10.1972 (Annexure P4) said to have been executed by Smt Mani Ben. Learned counsel for the State has also referred to the report of the FSL Madhuban wherein it has been opined that the thumb impressions which were sent for comparison did not tally with the standard signatures on the questioned documents of Mani Ben. However, these aspects are to be considered and gone into by the trial Court after evidence has been led. The petitioner is in custody since 21.1.2007. The case is triable by Magistrate of the First Class and the trial in the case is likely to take time. The petitioner is not in possession of the plot as it is his own case that the only option available to him for getting the land back was to knock at the doors of the Court and he has filed a civil suit in the lower court at Faridabad.

In the circumstances, during the pendency of the case, the petitioner is entitled to the concession of regular bail. Consequently, the petition is allowed and the petitioner, on his furnishing personal bond and surety to the satisfaction of the learned trial Court shall be admitted to bail.

20.8.2007. (S.S.SARON)
ASR JUDGE